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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,896	12/29/2005	Johannus Leopoldus Bakx	NL 030845	6920

24737 7590 10/30/2007  
PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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CHOW, LIXI

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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10/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,896	<b>Applicant(s)</b> BAKX, JOHANNUS LEOPOLDUS	
	<b>Examiner</b> Lixi Chow	<b>Art Unit</b> 2627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

2. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Objections***

3. Claim 6 is objected to because of the following informalities: in lines 2-3 of claim 6; the phrase "any of" should be deleted. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (US 2003/0227846; hereafter Lee).

Regarding claim 7:

Lee discloses a recording method for recording information on a dual layer recordable disk (see Fig. 1), characterized in that the information to be recorded is substantially equally divided between a first layer (L0) and a second layer (LI) of the dual layer disk and is written to the first and second layer such that beyond a maximum radius (Rmax) no data is written on both layers (L0, LI) (see Fig. 1; the path of the laser beam shown in the figure suggests that the information to be recorded is substantially equally divided between the layers; and the location at the outer periphery of the disk corresponds to the maximum radius Rmax).

Regarding claim 8:

Lee discloses a recording device for recording information on a dual layer recordable disk adopted for using of the method according to claim 7 (see Fig. 6).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (US2003/0227846; hereafter Lee) in view of Hsiao (US 6,738,329).

Regarding claim 1:

Lee discloses a recording method for recording information on a dual layer recordable disk (see Fig. 1), the method comprising a step of performing an Optimum Power Control (OPC) procedure for determining an actual optimum writing power, said Optimum Power Control procedure being performed in an OPC-area on the disk (see Fig. 2; test zone corresponds to OPC-area), characterized in that the Optimum Power Control procedure is performed in an OPC-area located on at least one of the layers (L0, L1) of the dual layer disk (see Fig. 1; test writing can be performed on either one of the layers).

Lee fails to disclose that the Optimum Power Control procedure is performed in an OPC-area variably located on at least one of the layers; however, Hsiao discloses a recording method for recording information on a recordable disk, the method comprising a step of performing an Optimum Power Control procedure for determining an optimum writing power, said Optimum Power Control procedure being performed in an OPC-area on the disk, characterized in that the Optimum Power Control procedure is performed in an OPC-area variably located on the disk (see col. 5, lines 38-46).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Lee to incorporate a method of performing OPC procedure in an area that is variably located on the disk as suggested by Hsiao. The motivation

to carry out the modification is that a more desirable optimum writing power can be obtained for a particular location of the disk.

Regarding claim 4:

Lee discloses the recording method, comprising a further step of performing an further Optimum Power Control (OPC) procedure, said further Optimum Power Control procedure being performed in a further OPC-area located at a fixed position on at least one of the layers (L0, L1) of the dual layer disk and reserved for use by the further Optimum Power Control procedure (see Figs. 1 and 2; LO area on layer 0 corresponds to a further OPC-area).

Regarding claim 5:

Lee discloses the recording method as claimed in claim 4, wherein the further Optimum Power Control procedure is performed in a first fixed OPC-area located on a first layer (L0) of the dual layer disk and in a second fixed OPC-area located on a second layer (L1) of the dual layer disk (see Figs. 1 and 2; LO area in layer 0 corresponds to a first fixed OPC-area and LI area in layer 1 corresponds to a second fixed OPC-area).

Regarding claim 6:

Lee discloses a recording device for recording information on a dual layer recordable disk adopted for using the methods according to claim 1 (see Fig. 6).

8. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Hsiao as applied to claim 1 above, and further in view of Ueda et al. (US 2003/0137910; hereafter Ueda).

Regarding claim 2:

The combination of Lee and Hsiao discloses all the features as claimed in claim 1. However, neither Lee nor Hsiao discloses that the location of the OPC-area depends the amount of information to be recorded. On the other hand, Ueda discloses a recording method, wherein the location of a replacement area on at least one of the layers of a dual layer disk depends on the amount of information to be recorded on the disk (see Fig. 11, 19, 21 or 22).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Lee, Hsiao and Ueda, since Ueda shows a more effective way of using the disk by having the location of the replacement area depends on the amount of the information to be recorded. Note that the distance between the replacement area and the defect area is greatly reduced; thereby a more effective way of using the disk is realized.

Regarding claim 3:

Lee discloses a recording method, wherein the OPC-area is located in the Middle Zone of the at least one of the layers of the dual layer disk (see Figs. 1 and 2; LO area of layer 0 and LI area of layer 1 correspond to the middle zone area).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lee et al. (US 2004/0125738) is cited, because Lee et al. teaches a method of recording information on a dual layer optical disk, wherein a test writing zone is provided in both the lead-in and lead-out area of the disk.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lixi Chow whose telephone number is 571-272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LC 10/24/07



WAYNE YOUNG  
SUPERVISORY PATENT EXAMINER